

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**MINORITY TELEVISION PROJECT,
INC.,**

Plaintiff - Appellant,

v.

**FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,**

Defendants - Appellees,

and

**LINCOLN BROADCASTING
COMPANY,**

Intervenor.

No. 09-17311

D.C. No. 3:06-cv-02699-EDL

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Fed. R. App. P. 35(a) and Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.